

**MASSACHUSETTS**  
Public Employee Retirement Administration Commission  
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MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Regular compensation and motor vehicle usage

DATE: January 5, 2001

The Commission has received several inquiries on whether the monetary value of personal use of an employer-supplied vehicle can be regular compensation for retirement purposes. Pursuant to federal and state law, an employee's use of an employer-provided vehicle for commuting or personal use is considered fringe benefit income. As such, the value of that commuting and personal use must be included on an employee's W2 tax form. Since the employee benefits from such use and is required to pay taxes based on an IRS-provided formula, the amount of value contained on the W2 can be regular compensation for retirement purposes. Unless proven otherwise, based on information provided by the state Operational Services Division, the IRS attributes a value of \$1.50 per one-way commute for 249 days each year. This amount is added to an employee's W2 tax form. The amount, however, may be greater if the employee's personal use is for more than commuting.

Retirement boards should consider the value of IRS-defined personal use of an employer-provided motor vehicle as regular compensation. Consequently, any amount included on the W2 which is consistent with IRS rules is regular compensation subject to retirement deductions.

Certain vehicles are exempted from the IRS fringe benefit income rules and the value of their personal use is not subject to taxation. These include police vehicles (clearly marked), fire vehicles (clearly marked), garbage trucks, tractors and flat bed trucks. This exemption is only available if the employee is required to commute in the vehicle so that he/she can be on call outside his/her regular shift.

Additionally, unmarked police vehicles are exempt from federal taxation when fulfilling a law enforcement responsibility of a law enforcement officer (requirements: employed full-time by a law enforcement agency; authorized to carry a gun, execute warrants, and make arrests; and ordinarily carries a firearm).

MEMORANDUM - Page Two

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Since these vehicles are provided for the benefit of the employer, regardless of whether they provide some potential commuting benefit to employees, users are not required to include any amount on their W2 tax forms. G.L. c. 32, § 1 provides in part:

"Regular compensation", during any period subsequent to December thirty-first, nineteen hundred and forty-five, shall mean the salary, wages or other compensation in whatever form, lawfully determined for the individual service of the employee by the employing authority... (Emphasis supplied).

Pursuant to G.L. c. 32, § 1 and the IRS rules, these exempt vehicles are not for the benefit of or given for the individual service of employees and, consequently, the value of any personal/commuting use is not "other compensation in whatever form." As a result, the value of any personal or business use of an exempt vehicle is not regular compensation for retirement purposes.

In summary, unless the value of the personal use of an employer-supplied vehicle is added to an employee's W2 pursuant to the IRS rules, the amount is not regular compensation. Amounts added to an employee's W2 pursuant to IRS rules are regular compensation. Retirement boards must receive a copy of the W2 to verify that the added amount was subject to taxation and must receive payment of retirement deductions on the regular compensation.

We trust the foregoing is of assistance. If you have further questions or concerns, please contact this office.

JEC/sjz

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